

BLUE RIBBON PANEL
Department of Transportation District 5 Office Building
1511 Missouri Boulevard
Jefferson City, Missouri
March 14, 2003

Minutes of Meeting

Meeting Notice

The Blue Ribbon Panel appointed by the Missouri Highways and Transportation Commission (MHTC) met on Friday, March 14, 2003, in the Department of Transportation District 5 Office, 1511 Missouri Boulevard, Jefferson City, MO. A meeting with MoDOT employees convened at 10:30 a.m. The meeting Panel's regular meeting convened at 11 a.m.

The meeting agenda, showing the date, time, and location of the meeting, was posted in keeping with Section 610.020 of the 2000 Revised Statutes of Missouri, as amended.

Attendance

Members present for regular meeting:

Dr. Jack Magruder, Chairman
Ray Beck
Jim Henson
Tom Irwin
Freeman McCullah
John Mehner
Joe Ortwerth
Steve Roberts
Larry R. Stobbs
Morris Westfall

Members attending employee input meeting:

Dr. Jack Magruder, Chairman
Jim Henson
Freeman McCullah
John Mehner
Joe Ortwerth
Larry Stobbs

Members absent:

Emanuel Cleaver
Karen Messerli

MoDOT Staff present and providing resource information:

Henry Hungerbeeler, Director
Kevin Keith, Chief Engineer
Pat Goff, Chief Operating Officer
Paula Lambrecht, Assistant Chief Counsel
John Cauwenbergh, Legislative Counsel

Summary of Meeting

Meeting with MoDOT Employees

Prior to the Panel's regular meeting, Chairman Magruder and Panel members McCullah, Stobbs, Ortwerth, Mehner, and Henson met with 21 employees from the Headquarters Office and 10 from the District 5 office, without MoDOT management staff, to listen to their input as it pertained to accountability, credibility, and efficiency issues. The employees were selected at random in keeping with a process developed by the MoDOT District Engineers.

Call to Order – Approval of Minutes

Dr. Jack Magruder, Chairman, called the meeting to order. Upon motion duly made and seconded, the minutes of the February 17, 2003, meeting were approved as submitted.

Future Strategy to Gather Input

The Blue Ribbon Panel members discussed strategy for gathering input and decided that during the month of April, Chairman Magruder and one or two other panel members would meet individually with identified transportation-related legislative leaders and stakeholders. The meetings will seek to determine (1) what had contributed to the perception of lack of MoDOT's accountability and credibility and (2) what should be done to restore the lost credibility and ensure accountability. The Panel discussed individuals or groups that should be contacted, and the members were encouraged to contact Chairman Magruder with additional suggestions.

The Panel scheduled regular meetings on April 8 in Kansas City, April 16 in St. Louis, and April 28 in Springfield. Meetings will also be scheduled on these dates for Chairman Magruder and other panel members to meet with MoDOT employees and listen to public input. The Panel acknowledged that not all panel members would be available to attend all of the meetings with the MoDOT employees and public input forums.

Further, in an effort to seek public input from those who may not be able to travel from rural areas to the public input meetings in Kansas City, St. Louis, and Springfield, the Panel agreed that individual Panel members could organize meetings with individuals or groups in their local areas to gather input on the accountability and credibility issues noted above. Panel members will advise Chairman Magruder of the logistical information of such meetings; Chairman Magruder will disseminate the information to allow other Panel members to attend.

The March 31 scheduled meeting was cancelled.

Time Line

Chairman Magruder expressed the hope that all input can be gathered during April, thereby allowing the Panel to develop the first draft of the Panel's response during May and

further revise the response in June and July.

Reference Material and Staff Analysis Pertaining to Panel's Charge

Paula Lambrecht, Assistant Chief Counsel; John Cauwenbergh, Legislative Counsel; Pat Goff, Chief Operating Officer; and Kevin Keith, Chief Engineer, presented the Commission with information about governance of the Commission and MoDOT and about MoDOT funding and the allocation method for highway construction funds. Their presentations and the discussion that followed are summarized below.

Commission Governance

The Constitution states that the Commission will be bi-partisan and shall have authority over all state transportation projects and facilities as provided by law. It also provides that MoDOT will be non-partisan.

The statutes specify the number of Commission members (6) and length of terms (6-years). The statutes also authorize the Commission to elect its chair and vice chair. There is no statutory requirement for Commissioners to be appointed from specific geographical areas or political districts.

The statutes provide that the Commission will appoint a Director, a Secretary, and a Chief Counsel. The Director, under the supervision of the Commission, is to be in charge of and responsible for the overall operations and performance of MoDOT.

Ms. Lambrecht reported that eight states (Arkansas, Georgia, Idaho, Mississippi, Missouri, South Carolina, Texas, and Washington) have independent Commissions with an independent administrative head appointed by the Commission. Three of those (Arkansas, Georgia, and Missouri) have Commissions created in their Constitutions; the remaining five are authorized by statute.

Ms. Lambrecht further reported that 23 states have Commissions with a Governor-appointed administrative head.

Responses from MoDOT staff to questions from the Panel members revealed that the Commission is required by statute to meet at least once at month. Generally, the Commission meets four times a year in locations other than Jefferson City. Approximately one year ago, the Commission began hearing short, unscheduled presentations from the public at its meeting away from Jefferson City to accommodate those who may not be familiar with its public-input process. The Commission continues to feel, however, that it is beneficial to the public for the MoDOT top management staff to investigate and attempt to resolve issues prior to scheduled public presentations.

Senator Westfall suggested that in those cases where citizen requests are denied, the decision be accompanied by information outlining the citizen's right to an appeal to either the Commission or a specified management level within MoDOT, whichever is more appropriate.

Senator Westfall advised the Panel that when the terms of the Commission members were originally established, they were staggered in such a manner that one Governor could not appoint a majority of its members. He explained that the Constitutional change allowing Governors to serve two terms, resulted in the ability of one Governor to potentially appoint all of the Commission members.

In summary, Ms. Lambrecht stated that the MoDOT staff was in favor of legislation that would define and stagger the terms of Commission members. She further stated that the Constitutionally created bi-partisan Commission and non-partisan Department of Transportation had served Missouri well by allowing road improvements to be made based on a statewide view rather than political considerations.

MoDOT Director Henry Hungerbeeler advised the group that the average tenure of a Governor-appointed Department of Transportation administrative head is 18 months. Mr. Hungerbeeler has been the Director of MoDOT for four years, but ranks eighth in tenure among his colleagues in other states.

MoDOT Oversight

MoDOT Legislative Counsel John Cauwenbergh reported that Missouri's Constitutionally-created Commission and independent administrative head has the potential for public assumption that no oversight is in place to insure MoDOT accountability, which, he said, was not the case. He stated there were numerous sources of oversight, including various legislative committees related to appropriations, transportation, budget, and oversight; an independent auditor; the State Auditor; and the Federal Highway Administration. Mr. Cauwenbergh pointed out that MoDOT submits an annual report to the Joint Committee on Transportation Oversight, which includes financial statements verified by independent auditors, as well as specific information on delivery of projects included in MoDOT's Statewide Transportation Improvement Program.

Chairman Magruder observed that there appeared to be a missing connection between the oversight structure and efforts as presented by Mr. Cauwenbergh and the on-going public's concern with MoDOT's accountability. He said there appears to be a problem with the way the information contained in the many accountability documents is conveyed not only to the public, but also to the MoDOT employees.

Funding

The Constitution provides a dedicated source of funding to be divided between the counties (generally 10%), cities (generally 15%) and the state for highway purposes.

Of the funds available to the state, the Constitution allows (1) an appropriation for collection of the funds, (2) an appropriation for administering and enforcing motor vehicle laws or traffic regulation, and (3) an appropriation of funds for maintaining the highway related activities of the Highways and Transportation Commission and MoDOT. All remaining funds are deposited into the State Road Fund for use by the Commission for specified highway

purposes. The funds deposited into the State Road Fund stand appropriated without legislative action.

Chairman Magruder stated that members of the public perceive that all highway user funds paid to the state are available for improvements on the State Highway System, when, in fact, the specific allocation of funds to cities and counties and the responsibility of the General Assembly to appropriate funds for revenue collection, motor vehicle law enforcement, and other highway related purposes is defined in the Constitution and not under the jurisdiction of the Commission or MoDOT. Unfortunately, he said, this has resulted in a credibility issue for MoDOT.

In discussing whether the amounts appropriated by the General Assembly for the above purposes were used solely for the stated purposes, Senator Westfall explained that in appropriating money from the State Highway and Transportation Department Fund, the General Assembly considers testimonies and justifications from the relevant state agencies, mainly the Department of Revenue and the State Highway Patrol.

Mr. Cauwenbergh reported that the State Auditor had recently released a report stating that her office found that some of the agencies were not adequately tracking the use of highway user revenues appropriated to their agencies.

The panel members discussed the need to ensure that highway user funds appropriated to other state agencies are spent only for the purposes stated in the Constitution, but did not identify a specific means of doing so.

Review of MoDOT Funds

MoDOT Chief Operating Officer Pat Goff explained the allocation of funds available to MoDOT to various administrative categories; MoDOT Chief Engineer Kevin Keith reviewed the funding allocation for construction program funds, which was approved by the Commission in January 2003, and distributed a chart with a written narrative explaining the process. He emphasized that funding for taking care of the existing system had increased to a level that will allow progress to be made on the condition of Missouri roadways while continuing to construct highway improvements to increase safety and capacity.

During discussion of this issue, Senator Westfall noted that MoDOT's success in using funds federally mandated for purposes other than highway improvements unfortunately results in a negative perception from the public. The mandated funds frequently result in roadway beautification and facilities for pedestrians and cyclists in areas where badly needed highway improvements cannot be made.

Discussion revealed that the allocation method for highway construction funds does not have statewide consensus. Various regions take exception to the factors upon which the allocation is based. Mr. Ortwerth expressed concern that establishing a formula for allocating construction funds minimizes the flexibility of the Commission to react to urgent needs.

Mr. Ortwerth and Senator Westfall noted that the funding allocation method allows significant decision-making to be made, or influenced by, local areas. They expressed concern that such relinquishment of authority by the Commission would negatively impact its ability to provide highway improvements that have statewide benefits.

Mr. Keith reported that the Commission would reevaluate the funding allocation process in two years.

Employee Health Insurance

In response to an inquiry from Mr. Ortwerth, Mr. Goff advised that the benefits offered through MoDOT's self-insured health insurance plan are comparable to that of the state's Consolidated plan, but at significantly less cost to the employees. MoDOT's plan covers MoDOT and State Highway Patrol employees and is administered through a committee of MoDOT and State Highway Patrol employees and retirees under the direction of the Commission. He was opposed to proposals that would include MoDOT employees in the Consolidated plan.

Total Transportation Responsibilities

Mr. Stobbs said a portion of MoDOT credibility problems results from lack of understanding by Missouri citizens that MoDOT has responsibility for all transportation modes, and not highways alone. He noted that citizens criticize MoDOT involvement in airport and port issues because they do not realize that funding for these modes is taken from federal funds dedicated for those purposes and General Revenue.

Open Container

Mr. Cauwenbergh reported that a federal mandate requires states to enact legislation banning open alcoholic beverages in motor vehicles. Lack of Missouri's legislative action has resulted in a mandatory transfer of \$10 million of federal highway construction funds to highway safety programs. This transfer of funds to the Division of Highway Safety channels those funds to educational and enforcement programs to reduce the number of motorists who drive while intoxicated. Funds in excess of those that can be used by the Division of Highway Safety are redirected to MoDOT for use on highway safety issues, such as installing guardrails. These funds cannot, however, be used for construction projects.

In response to an inquiry from Mr. Roberts, Mr. Cauwenberg stated that the General Assembly hears opposition to this proposed legislation from representatives of companies involved in the manufacture and sale of alcoholic beverages and their related associations. Senator Westfall noted that "open container" legislation was also opposed by many sports fans.

Request for Additional Information

During the meeting, the Panel requested the following additional information:

1. MoDOT policies pertaining to travel. (Ortwerth)
2. MoDOT policies pertaining to moving expense reimbursement and MoDOT's position on moving employees. (Ortwerth)
3. Report on status of job study. (Magruder)
4. Information on the balance of power between the Commission and Director in the 23 states that have a Commission/Governor-appointed Director combination. (Ortwerth)
5. Information on funding, highway plans approval, and citizen appeal processes as it pertains to other states with Commissions. (McCullah) *Subsequent to the meeting Ms. Lambrecht talked with Mr. McCullah and determined that his request could be limited to information on funding.*
6. Information on which states have an Inspector General, a Chief Financial Officer, and an outside auditor. (Roberts)
7. Historical information on the reasons for the legislatively-created merger of the Department of Transportation and the State Highway Department in 1979. (Roberts)

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